IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

WRIT PETITION NO. 5734 OF 2003 .

Ashok G. Parekh ... Petitioner.

V/s.

Chemox Exports P. Ltd. & ors.... Respondents.

Ms. Ranjana Parekh for the petitioner.

Shri Ravi S. Rattesar for the respondents.

CORAM : V.C.DAGA, J.

DATED : 22.12.2005.

P.C. :

. Heard rival parties.

2. During the course of hearing, it is brought to my notice that in the proceeding taken out before the Small Causes Court, Bombay, in the nature of Int.Notice No. 67/2004,learned Counsel appearing for the petitioner in the Small Causes Court has made a statement reading as under

> . "At this stage,learned advocate Shri Sanghvi appeared on behalf of the defendant nos. 1 to 4 submits that as per the total claim of the plaintiffs as on 31.3.2004 which comes to Rs. 313718.09, the defendants are ready and willing to deposit the said amount within one month from today if it is agreeable by the plaintiffs and the amount of arrears due and payable from 1.4.2004 to 30.4.2005 will be deposited within one month thereafter in compliance of the order passed on 2.5.2003."
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> (Emphasis supplied)

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3. In view of the statement made by the petitioner before the Small Causes Court at Mumbai, cause of action for the present petition does not survive. It is liable to be dismissed.

4. However, it is made clear that the petitioners can comply with the statement made before the Small Causes Court and recorded in the order dated 5.4.2003 within 8 weeks from today, subtracting the amount already deposited Needless to mention that this deposit shall be subject to the result of the suit and other proceedings (if any).

5. Petitioner shall be at liberty to claim adjustment thereof when final liability of the petitioner will be determined either in the suit or mesne profit proceedings.

6. Petition, thus, stands disposed of in terms of this order with no order as to costs.